

product claim is found allowable and the withdrawn process claim depends from or otherwise includes all the limitations of an allowed product claim. Id.

In the present application, the method claims of Group II include all of the limitations of the product of Group I. Since the method claims of Group II include the limitations of the product claims of Group I, the method claims must be rejoined with the product claims once the product claims are allowed. Thus, to streamline prosecution and avoid delay, the Restriction Requirement should be withdrawn to permit concurrent examination of all of the pending claims. Applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement.

The Restriction Requirement is also traversed because the subject matter of Groups I and II is sufficiently related that a search of any one group would encompass a search of the subject matter of the remaining group. The prior art revealed by a search of the semiconductor device of Group I would overlap the prior art revealed by a search of the method for fabricating a semiconductor device. Thus, although the classifications may be different, the subject matter is sufficiently overlapping that concurrent search of all of the claims does not create a serious burden.

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent claims. MPEP §803. Applicant respectfully submits that there would be no serious burden on the Patent Office to examine all of the present claims because the subject matter of Groups I and II is sufficiently related that a search of any one group would encompass the search of the subject matter of the remaining groups. Thus, the Restriction Requirement is improper and should be withdrawn.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement.

II. Election of Species Requirement

The Election of Species Requirement is directed to asserted different manufacturing processes. As such, the Election of Species Requirement appears applicable only to the election of Group II in the Restriction Requirement, not to product Group I. Because Applicants have elected Group I, above, it is believe that no specific election of species is required. However, to the extent that the election may be deemed applicable to the product Group I, in response to the Election of Species Requirement, Applicants provisionally elect Species I, Figs. 1(a)-9(d), with traverse.

In further response to the Election of Species Requirement, Applicants respectfully assert that at least claims 1-8 read on the elected species.

Applicants traverse the election of species requirement on the ground that the generic claims are not so broad as to place an undue burden on the Patent Office to search and examine the full scope of the claims. Rather, Applicants respectfully assert that search and examination of the entire application could be conducted without undue burden on the Examiner, thus avoiding delay and expense to Applicants.

Applicants further understand, however, that upon search, examination and allowance of the elected species, search and examination will continue as to the non-elected species within the scope of the generic claims.

III. Conclusion

Thus, withdrawal of the Restriction and Election of Species Requirement is respectfully requested.

Respectfully submitted,



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